

The 28th June, 1982

No. 9(1)-82-Lab/6191.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of the General Manager, Haryana Roadways, Bhiwani.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,

ROHTAK

Reference. No. 165 of 1977

between

SHRI SUBHASH CHANDER, WORKMAN AND THE MANAGEMENT OF THE GENERAL  
MANAGER, HARYANA ROADWAYS, BHIWANI

Present:

Shri Sagar Ram Gupta, for the workman.

Shri Vijay Veer Singh, for the management.

#### AWARD

This reference has been referred to this court by the Hon'ble Governor,—*vide* his order No ID/HSR/388-77/51392, dated 16th December, 1977 under section 10 (i) (c) of the Industrial Disputes Act, for adjudication of the dispute existing between Shri Subhash Chander, workman and the management of the Haryana Roadways, Bhiwani. The term of the reference was :—

Whether the termination of services of Shri Subhash Chander was justified and in order ?  
If not, to what relief is he entitled ?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance through their authorised representative in response to the notices. The parties filed their respective pleadings and the only issue framed on the pleas of the parties was "As per the dispute" referred to this court on 1st March, 1978. The management was asked to adduce there evidence on 3rd April, 1978. Another issue "Whether the domestic enquiry held by the management is fair and is in accordance with the principles of natural justice and the findings is not perverse," was framed as No. 1 on an application from the management on 21st July, 1978. The management examined Shri B. S. Manchanda and Shri R. P. Gupta as their witnesses and closed their case on issue No. 1. The workman examined himself as his only witness and closed his case on issue No. 1. My learned predecessor decided issue No. 1,—*vide* his order dated 13th August, 1979 against the management and held the enquiry to be against the rules of natural justice and the findings of the Enquiry Officer to be perverse without any sound reasons.

The management was allowed the opportunity to prove the charges levelled against the workman before this court. The management examined Shri Subha Chand, Inspector, Haryana Roadways, Bhiwani, Shri Ram Singh, Inspector, Haryana Roadways, Shri Suresh Chand, Traffic Assistant, Haryana Roadways, Bhiwani and Shri Rajinder Parshad as their witnesses and closed their case. The workman examined Shri Om Parkash s/o Shri Siri Chand, Shopkeeper, resident of Piragadhi, Shri Ved Parkash, Teacher, Govt. High School, Pakasma and himself as his witnesses and closed his case. I heard the learned representatives of the parties and decide the issues as under :—

#### Issue No. 1 :

The order dated 13th August, 1979 of my learned predecessor be treated as a part of my award.

#### Issue No. 2 :

The Inspectors who were examined as MW-3 and MW-4 have made a similar statement that the workman had collected the vouchers from the policemen which were meant for the journey from Jhajjar to Bahadurgarh but the workman had not issued the tickets to them. The Inspectors have further stated that they had told the conductor concerned workman that he was bringing the policemen from Jhajjar and had not issued tickets to them. The Inspectors took five unpunched tickets from the conductor from Jhajjar to Bahadurgarh and attached these tickets with their report which was marked Ex. M-3. The handing over of the tickets to them by the conductor was in token of his admission of guilt. The statement of the workman was corroborated by the witnesses examined by him to the extent that the policeman had boarded the bus from the Kherka stand which is at a

distance of half a mile from the next main stand of Dulhera where the bus was checked by the Inspectors but from the evidence produced by the workman it has not been established that the vouchers were collected by the Inspectors and not by him. As WW-2 has given out in his cross examination that no vouchers from the policemen were taken by the Inspectors. The management has not been able to establish by sufficient evidence that the policemen had actually boarded the bus from Jhajjar to incriminate the workman for the alleged charges. The workman too has not been able to satisfy me that he had not collected the vouchers from the policemen. No *mala fide* or enmity is pleaded against the Inspectors and it cannot be taken to be granted that the Inspectors had collected the vouchers and had not allowed the workman to issue tickets to them while other passengers were given tickets by the workman in the presence of the Inspectors as they had neither paid the fair to the workman nor he had been able to issue tickets to them. Under these circumstances I reach to conclusion that the policemen had boarded the bus from the earlier Dulhera stand and the workman had collected the vouchers from them but had not issued the tickets to them and it will be wrong to presume in the absence of any evidence on the file that the policemen were performing journey from Jhajjar by the bus. The workman cannot be imputed with the charge of fraud levelled against him as the interval was quite a short one but the conduct of the workman is not clean and without blemish when he had collected vouchers he ought to have issued the tickets. The management has not been able to prove the charges before me also and the punishment of termination for a charge proved before me is drastic one and shockingly disproportionate for the lapse on the part of the workman not to issue tickets after collecting vouchers as the time was short. I deny him the benefit of back wages while reinstating the workman with continuity of service. I give my award that the workman is entitled to reinstatement with continuity of service but without back wages. The reference is answered and returned in these terms.

Dated the 3rd June, 1982.

BANWARI LAL DALAL,  
Presiding Officer,  
Labour Court Haryana,  
Rohtak.

Endorsement No. 1350, dated the 15th June, 1982

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

BANWARI LAL DALAL,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

The 21st July, 1982.

No. 9(1)-82-6Lab./6390.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Philadelphia Hospital, Ambala City.

**BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD**

Reference No. 48/1981

between

**SHRIMATI GRACE BENJAMIN WORKMAN AND THE MANAGEMENT OF M/S PHILADELPHIA HOSPITAL, AMBALA CITY**

**Present:**

Shri Rajeshwar Nath, for the workman,  
Nemo, for the management.

**AWARD**

The State Government of Haryana referred the following dispute between the workman Shrimati Grace Benjamin and the management of M/s Philadelphia Hospital, Ambala City by order No. ID/Amb/1/81/8713, dated 17th December, 1981, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shrimati Grace Benjamin was justified and in order? If not, to what relief is she entitled?

Notices of the reference were sent to the parties who appeared. The claim statement was filed by the workman but the management did not file any written statement despite repeated opportunities. Therefore, issues under reference was put on trial by my order, dated 18th August, 1981. The management examined Shri Pritam Singh Secretary as MW-1 and claimant examined herself as her own witness. There was none present on behalf of the management, therefore, *ex parte* arguments were heard.

MW-1 deposed that the husband of the claimant was working as Business Manager. He had submitted an application that his wife may be given employment. Thereafter, she was employed as Mess supervisor. Her work was not found satisfactory. She cannot read or write. Her report was written by her husband. She had given her qualification wrong. About 22-23 nurses had made complaint against her. Due to the complaint, the mess was closed and work was given on contract. The claimant was, then asked to work with the contractor on the same pay. Likewise another worker Shrimati Bharwa was also asked to work with the contractor and she was still on the job but the claimant did not accept the suggestion of the management and went to her home. She handed over her charge on 28th November, 1978. In cross examination, he denied the suggestion that the service of the claimant was terminated because her work was not found satisfactory. He could not tell if she joined service on 1st, September, 1977. He stated that later on she was confirmed by the Managing Committee. Notice was to be issued by the Business Manager who was her husband, therefore, he did not serve notice intentionally and allowed her to proceed on leave. She denied the suggestion that her service was terminated because her husband had appeared as witness against Dr. Sukh Nandan. The claimant stated that she joined service in 1977 as mess supervisor. She was made regular in September, 1977 and she was confirmed in September, 1978 by the order of Managing Committee. She used to get annual increment. Her service was terminated in December, 1978. She was not paid any retrenchment compensation or notice pay. No enquiry was held against her. Her work was satisfactory. She was terminated by Dr. Raj Sukhnandan who had no authority to terminate her service. She denied the suggestion that she was terminated because of giving mess on contract. Her duty was to issue ration, maintain its record, prepare meals, and get the same served to the patients. She also used to maintain its record. In cross examination, she replied that she was working in Mission Hospital, Jagadhri. She got employment in November, 1981 at Jagadhri. No termination letter was received by her. Her service was terminated verbally by Dr. Raj Sukhnandan when she returned from leave. No notice was issued to her. She had served demand notice for her reinstatement.

Learned representative for the workman argued that the claimant was a confirmed employee. Her service was terminated without any justification.

I have gone through the evidence and find that the claimant joined service in March, 1977 according to the claim statement and her service was terminated with effect from 1st January, 1979. According to the management evidence, she had become surplus but there is no evidence to show that section 25-F, of the Industrial Disputes Act was complied by the management before terminating her service. The management did not produce any letter of termination or other evidence justifying its action. Therefore, I find that the termination of service of the claimant was not legal in view of Supreme Court verdict in case of Shrimati Santosh Gupta *versus* State Bank of Patiala 1978-II-LLJ page 72. Therefore, I pass my award that she was entitled to her reinstatement. As regard back wages I find that her service was terminated on 1st January, 1979 but she submitted her demand notice on 10th September, 1980. Therefore she will be not entitled to wages for the period from January, 1979 to 10th September, 1980. As she got employment in November, 1981 therefore she will be entitled to proportionate wages in case she got less amount than what she would have been getting had she been in the employment of respondent management during the period.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.

Endst No. 630, dated 18th June, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the I. D. Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.